(1)

No. _____

In The

Supreme Court of the United States

DELBERT H. REIDT,

Petitioner,

vs.

UNITED STATES OF AMERICA,

Respondent.

On Application For Petition For Writ Of Certiorari To The United States Court Of Appeals For The Ninth Circuit Pre-Filing Review Order No. 92-80380 Before Entry Of Final Judgment, 28 U.S.C. § 2412(d)(2)(G)

APPLICATION FOR PETITION FOR WRIT OF CERTIORARI

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LIST OF FEDERAL QUESTIONS PRESENTED FOR AN IMMEDIATE DETERMINATION UNDER SUPREME COURT RULE 11, 28 U.S.C. § 2101(e) AND FED.R.CIV.P. 62

I.

Does applicant have any due process rights to adjudicate all his claims in cases at law and equity? Const. Art. III Section 2, Amend. V.

II.

Where application is made before entry of final judgment in the Ninth Circuit under Supreme Court Rule 11 and 28 U.S.C. § 2101(e) shall the Court follow and comply with the reasons in Fed.R.Civ.P. 62?

III.

Where the Ninth Circuit failed or refused to reconsider, rehear, clarify or stay the mandate is such refusal an abuse of judicial discretion? See: Appendices 1-4 to this application.

IV.

Did the Ninth Circuit sanction the abuse of judicial discretion where it refused to hear any of the cases on appeal in No. 92-80380? Supreme Court Rule 10.

V.

Shall Appendix 5 to this petition be modified under Fed.R.Civ.P. 62(b) and (g)?

LIST OF FEDERAL QUESTIONS PRESENTED FOR AN IMMEDIATE DETERMINATION UNDER SUPREME COURT RULE 11, 28 U.S.C. § 2101(e) AND FED.R.CIV.P. 62 – Continued

VI.

Applicant was unsuccessful in his attempts to secure from the Clerk's office any final judgment to Appendix V under Fed.R.Civ.P. 58 or 79(a). Will this Court order the district court Clerk at San Jose, CA to forward any judgment to petitioner? 28 U.S.C. § 2106.

VII.

If this Court finds the judgment at Appendix V is final on all claims, rights and liabilities of the parties will the Court Order the Ninth Circuit to enter final judgment with an Order that the parties settled the case after settlement conference under Fed.R.Civ.P. 16?

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I.

OPINIONS, ORDERS BELOW

1. Appendix 1 is pre-filing review order No. 92-80380 date March 16, 2007 where the Ninth Circuit refused applicant's petition and then refused to reconsider, rehear, clarify or stay the mandate.

With respect to stay of mandate, the stay is automatic under Fed.R.Civ.P. 62 during the entire appeal process including the Supreme Court.

2. The pre-filing review order was issued in Appendix 2 with the same results as in Appendix 1. July 21, 2006.

3. Appendix 3 was issued on Feb. 28, 2006 with the same results above.

4. Appendix 4 was issued on April 12, 2005 with the same results noted above.

5. Appendix 5 was issued on Dec. 14, 1989 and is still not a final judgment on the entire case. It is the reason this action has been lengthy without a final determination, and is subject to alter or amend in accordance with Fed.R.Civ.P. 62 by this Court, Supreme Court Rule 11 and 28 U.S.C. § 2101(e). Once that amendment or alteration has taken place, then the Ninth Circuit will enter a final judgment as instructed by this Court, 28 U.S.C. § 2106.

6. Appendix 6 is a premature dismissal of the first case filed by applicant and a study of the dismissal order reveals that the negligent withholding of Dr. Lash's diagnosis at Appendix 17 was only a negligent oversight.

II.

JURISDICTION

Because a final judgment in the Ninth Circuit is awaiting a determination on the evidence offered in the Appendix, jurisdiction is limited to Supreme Court Rule 11:

> An (application) petition for a writ of certiorari to review a case pending in a United States Court of Appeals, before judgment is entered in that court, will be granted only upon a showing that the case is of such imperative public importance as to justify deviation from normal appellate practice and to require an immediate determination in this Court.

See also 28 U.S.C. § 2101(e).

Well, applicant alleges it has been 17 years since the issue of Appendix 5 and there is still no final judgment on all the claims, rights and liabilities of the parties under Fed.R.Civ.P. 16(e). Under Const. Art. III section 2 the public is entitled to full and fair litigation of their claim, etc. without some summary judgment barring that process, a determination of the issues herein will lead to a final judgment.

28 U.S.C. § 2101(e):

> An application to the Supreme Court for a writ of certiorari to review a case before judgment has been rendered in the Court of Appeals may be made at any time before judgment. *See also* Fed.R.Civ.P. 62.

It has been 17 years since Appendix 5 was entered without a final judgment and applicant sincerely believes that if the Ninth Circuit entered a final judgment on Appendix 5 this Court would review on the issue of finality. Since

there is still no final judgment for this Court to review finality cannot be affirmed.

Fed.R.Civ.P. 62. Stay of Proceedings to Enforce a Judgment.

> (a) Automatic Stay: Exceptions, Injunctions, Receiverships, and Patent Accounting. Except as stated herein, no execution shall issue upon a judgment nor shall proceedings be taken for its enforcement until the expiration of 10 days after its entry. Unless otherwise ordered by the court, an interlocutory or final judgment in an action for an injunction or in a receivership action, or a judgment for infringement of letters patents, shall not be stayed during the period after its entry and until appeal is taken or during the pendency of an appeal.
>
> (b) Stay on motion for new trial or for Judgment. In its discretion and on such conditions for the security of the adverse party as are proper, the court may stay the execution of any proceedings to enforce a judgment during pending disposition of a motion for a new trial or to alter or amend a judgment made pursuant to Rule 59, or of a motion for relief from a judgment or order made pursuant to Rule 60, or of a motion for judgment in accordance for a directed verdict made pursuant to Rule 50, or a motion for amendment to the findings or for additional findings made pursuant to Rule 52(b).

With respect to (b) above applicant has made motions to the district courts below on the same issues enumerated in (b) above without relief.

> (g) Power of Appellate Court Not Limited.
>
> The provisions in this rule do not limit any power of an appellate court or of a judge or justice (it is

assumed the word justice refers to the Supreme Court justice) thereof to stay proceedings during the pendency of an appeal or to suspend, modify (it is presumed under 28 U.S.C. § 2106), restore, or grant an injunction during the pendency of an appeal or to make any order appropriate to preserve the status quo (that is to say the equitable rights of the party) or the effectiveness of the judgment subsequently to be entered.

(c), (d), (e) and (f) omitted as irrelevant.

(h) Stay of Judgment as to Multiple Claims or Multiple Parties.

When a court has ordered a final judgment under the conditions stated in Rule 54(b), the court may stay the enforcement of that judgment until the entering of a subsequent judgment or judgments and may prescribe such conditions as are necessary to secure the benefit thereof to the party in whose favor the judgment was entered.

The Court has additional jurisdiction of an extraordinary writ as an aid in appellate jurisdiction under 28 U.S.C. § 1651(a), the all writs statute and Supreme Court Rule 20.1 where adequate relief cannot be had in any other court or in any other form.

III.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

28 U.S.C. § 2106 provides that:

The Supreme Court or any other court of appellate jurisdiction may affirm, modify, vacate, set aside or reverse any judgment, decree, or order of

> a court lawfully brought before it for review, and may remand the cause and direct the entry of such appropriate judgment, decree, or order, or require such further proceedings to be had as may be just under the circumstances.

Constitutional Article III Section 2:

> The judicial power shall extend to all cases in Law and Equity, arising under this Constitution, the Laws of the United States.

Amend V: No person shall be . . . deprived of . . . due process of Law.

This application is before this Court under 28 U.S.C. § 1346(b):

> Subject to the provisions of Chapter 171 of this title, the district court, together with the United States District Court for the District of the Canal Zone and the District Court of the Virgin Islands, shall have exclusive jurisdiction of civil actions on claims against the United States, for money damages, accruing on or after January 1, 1945, for injury or death caused by the negligent or wrongful act or omission of any employee of the Government while acting within the scope of his office or employment, under the circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred.

The ABOVE IS RECITED practically verbatim in 28 U.S.C. §§ 2671, 2672, 2674, 2675, 2677 and 2679. (Chapter 171 of this title).

> (c) The jurisdiction conferred by this section includes jurisdiction of any set-off, counterclaim, or other claim (no doubt the Feres Doctrine) or demand whatever on the part of the United States against any plaintiff commencing an action under this section.
>
> (d) The district courts shall not have jurisdiction under this section of any civil action or claim for pension.

(Applicant informed Judge Ingram he could not order disability pay from the Veterans Administration. (Besides the Claims Court on March 6, 1986 Memorandum of Decision denied my disability pay claim, *Reidt v. United States*, 49-85-C (Harkins))).

IV.

STATEMENT OF THE CASE

1. Applicant enlisted into the U.S. Coast Guard for a 3-year term on Dec. 10, 1951.

2. Applicant was found to be physically qualified for retention in military service on Dec. 17, 1951 which contradicts a later finding of a pre-existing condition. See Appendix 21.

3. Sometime between Dec. 17, 1951 and early 1952 petitioner suffered a severe head trauma when a can of sand fell on his head while speed-boxing a leather ball suspended on a round platform. It was not a large punching bag. Applicant was taken to the Infirmary for overnight treatment and evaluation. The Coast Guard was negligent or wrongful act or omission to act in not providing follow-up medical treatment required by Appendix 26 section

404 of Title IV Career Compensation Act of Oct. 12, 1949 81st Cong. 1st Sess. Chapter 681, 63 Stat. 816-825, after discharge on July 7, 1952.

4. After discharge on July 7, 1952 applicant worried over an aneurism or blood clot and had an x-ray taken at VA Hospital, Spokane, WA. See Appendix 22.

5. Sometimes, applicant does not recall the exact date, but he began to experience some ill effects. He felt sickly for no apparent reason. Later he was found to have poor thought and speech organization. See Appendix 18.

6. Applicant has known since 1983 that at that time in 1952 he was experiencing severe anxiety with anxiety and panic attacks. Applicant was so anxious he could not march to mess for food. How he made it through drills and other marching duties he has no explanation. No wonder later reports at Public Health Service Hospital found him to be thin and undernourished. See Appendix 18.

7. In the middle of April the applicant was transferred to duty station at Commodore ST installation. He was assigned to the buoy tender Fir but lasted only a week or so due to the fact he almost ran the Fir aground while attempting to steer at his first and only attempt.

8. He was then assigned to the weather ship Falgout. By then he was feeling that he was cracking up and everything seemed funny when the sun shined. Which was his low IQ way of saying "I am having all sorts of anxiety attacks." See Appendix 17.

9. On May 12, 1952 applicant went A.W.O.L. from his assigned duty station at Tacoma, WA. He took a train to Seattle. He saw a medical doctor who recommended he turn himself into the United States Public Health Service

Hospital (hereafter PHS). He gave me a letter, told me not to open and away he went to PHS.

10. On May 13, 1952 he was seen by R.F. Lash, M.D. who read the letter from Dr. Klemperer, M.D. (deceased) and noted that applicant was referred to by a L. M.D. which translates as a licensed medical doctor. See Appendix 17.

11. Applicant did not discover Dr. Lash's diagnosis until late 1981 that applicant suffered from "a terrific number of phobias." See Appendix 17. Admit for treatment and evaluation as applicant was a severe N/P case. N/P means neuro-psychiatric case. Applicant now knows he was entitled to disability status and pay under Sections 403 and 404 of Appendix 26. 28 U.S.C. §§ 1346(b) and 2674.

12. In any event, applicant was seen by a Dr. Baker staff consultant in N/P to PHS. As such he was an employee of the United States under §§ 1346(b), 2672 and 2674 of Title 28.

13. Dr. Baker found applicant to "show poor thought and speech organization." This evidence is being withheld at this time in the event rebuttal is required.

14. Dr. Baker found applicant to be "suffering from an inadequate personality of a schizoid type." As such it was not a ratable disease and that therefore applicant be separated from the service without disability status or pay required by Sections 403 and 404 of Appendix 26. Since Dr. Baker was not a member of any Physical Evaluation Board (hereafter PEB) under 10 U.S.C. § 1214. Dr. Baker's conduct was a negligent or wrongful act or omission to act thereby incurring the strict liability of the United States

and was the legal or proximate cause of injury and damages for 55 years of pain and suffering, emotional stress, mental anguish, years of anxiety and panic attacks. 28 U.S.C. §§ 1346(b), 2674.

15. Applicant was later seen by a Board of Medical Survey (hereafter BMS) who informed applicant of Dr. Baker's diagnosis but did not inform applicant of Dr. Lash's diagnosis and the BMS is not authorized by 10 U.S.C. § 1214 to determine eligibility for disability status and pay under Sections 403 and 404 of Appendix 26. 28 U.S.C. §§ 1346(b) and 2674.

16. Having no experience with misleading statement from government officials the BMS mislead applicant into signing a waiver to not appear before the PEB. See Appendix 16. 28 U.S.C. §§ 1346(b) and 2674.

17. On July 7, 1952 the U.S. Coast Guard negligently, wrongful act or omission to act discharged applicant without disability status or pay even though applicant suffered head trauma and Dr. Lash showed severe phobias. 28 U.S.C. §§ 1346(b) and 2674.

18. Applicant's discharge was for convenience of the government. And applicant adds the only convenience was to not have to pay applicant any disability status or pay. 28 U.S.C. §§ 1346(b) and 2674.

19. After discharge applicant still suffered from the head trauma. His relative told him he might have an aneurism or blood clot on the brain. An x-ray of applicant's brain was performed at the Spokane, WA VA Hospital. The record of that x-ray is found at Appendix 22. 28 U.S.C. §§ 1346(b) and 2674.

20. Unknown to applicant at the time he was diagnosed by the VA of a severe anxiety neurosis. 28 U.S.C. §§ 1346(b) and 2674.

21. When applicant applied for disability status and pay at the then VA in 1981 the claim was for agoraphobia which in DSM III was the new diagnosis for anxiety, and their states such as obsessive compulsive, depressive, phobic neurosis. The VA denied the claim. 28 U.S.C. §§ 1346(b) and 2674.

22. In 1983 applicant was able to review his file at VA no. 16 431 872 and found an entry of the diagnosis of severe anxiety which is a ratable disability. When it was shown the VA simply denied the new claim and continued on the old claim of agoraphobia. Now the file is locked and no one can get into it. 28 U.S.C. §§ 1346(b) and 2674. See Appendix 27. Appendix 28 was my rebuttal.

23. Applicant then filed claim with the Public Health Service (now kaput) under 28 U.S.C. §§ 1346(b), 2672 and showed them Appendix 17 and the findings of Dr. Hardy which was denied by Health and Human Services. Health and Human Services is not a proper department to decide a military tort claim. Appendix 12 is the original claim for $30,000,000.00 for pain and suffering, emotional stress, mental anguish, anxiety attacks and panic attacks and post service loss of wages due to inability to engage in gainful, substantial employment opportunities, Fed.R.Civ.P. 8(a). The claim was denied because of no proof. 28 U.S.C. §§ 1346(b) and 2674.

24. In 1984 I resubmitted the claim based on Dr. Lash's diagnosis and it was still denied at Appendix 11. 28 U.S.C. §§ 1346(b) and 2674.

25. In 1980 I began a series of administrative claims with the Department of Transportation Board for Correction of Military Record for disability status and pay. 10 U.S.C. § 1552(a)-(e). The claim was based on agoraphobia. It was denied in No. 56-81. 28 U.S.C. §§ 1346(b) and 2674. There were several decisions made, and the Court will have to order the correct board to produce those records. The last being 329-89(R).

26. In 1981 applicant recovered PHS Microfilm Reel No.72-884. Parts of it are found at Appendices 17-20. It was submitted to the Corrections Board with a claim under sections 403, 404 of Appendix 26. 28 U.S.C. §§ 1346(b) and 2674. The claim was denied on the basis of agoraphobia from 1980 diagnosis and not the diagnosis from 1952 of Dr. Lash.

27. The burden is on respondents that the disability was the result of my own willful misconduct or negligence. Section 403 of Appendix 27. 28 U.S.C. § 1346(c) as a counterclaim.

28. And when applicant complained to the VA and Coast Guard that no follow-up medical treatment for the head trauma and phobias was provided it was ignored. 28 U.S.C. §§ 1346(b) and 2674.

29. Appendix 23 and 24 was furnished to both the Correction Board and VA and my claim was still denied. 28 U.S.C. §§ 1346(b) and 2674.

30. When applicant complained that his right to disability status and pay was found at Appendix 26 sections 404 and 4040, the VA replied they only administer claims under C.F.R. Code of Federal Regulations. 28 U.S.C. §§ 1346(b), 2674.

31. What really irritates applicant, infuriates applicant is Appendix 25 where applicant still pursued head trauma records from the National Personnel Records Center at St. Louis, Missouri. Applicant was called a "nut case." 28 U.S.C. §§ 1346(b) and 2674.

32. Moreover Judge Ingram in, I believe *Reidt v. Leo Wurschmit, et al.*, CV-88-20720-WAI (DC ND CA) issued an order that no record be destroyed until this case was final. 28 U.S.C. §§ 1346(b) and 2674.

33. Appendix 8 deals with destruction of medical records and my head trauma records were probably destroyed at July 2, 2004. TRANSFER TO NRRC (MPR) 9700 Page Boulevard, St. Louis, MO 63132. DESTROY 50 years of the latest document. . . . The clinical records were transferred on July 7, 1954 allowing destruction on July 7, 2004. As a consequence the Court is compelled to review Appendix 23 as the only surviving proof of head trauma and therefore is more probable than not as to the truth of the matter 28 U.S.C. §§ 1346(b) and 2674.

34. Appendix 9 is a letter from Chief, Military Records Branch assuring applicant the head trauma records would be shortly delivered. Dated: 20 APR 1989. It is now May 23, 2007 and the head trauma records are still not delivered. 28 U.S.C. §§ 1346(b) and 2674.

35. Appendix 10 is a letter of July 31, 1995 to applicant from Judge Ingram explaining that:

> "You have previously been informed that this court has limited resources and cannot spend its valuable time on matters not properly before it. While you may continue to send letters if you desire, you should not expect the court to respond to any further correspondence."

Applicant alleges the foregoing letter clearly shows an abuse of judicial discretion by Judge Ingram. He was not interested in the alleged head trauma, nor would he reopen the case and continue to adjudicate the other tort claim which were clearly shown. In a previous order Judge Ingram ruled that he had no reason to believe head trauma records existed so he was not going to waste his precious judicial time investigating the claim of head trauma. That was in No. CV-89-20527-WAI (DC ND CA of Jan. 1990).

All Judge Ingram wanted to do was rush to a judgment at Appendix 5 without discovery or admissions of any evidence. Hence, Appendix 22 is the only reliable evidence of the head trauma. On request for admissions Judge Ingram totally ignored or failed to respond to Appendix 22 as did the VA, Correction Board and all other respondents served this application for writ of certiorari.

Judge Ingram allowed defendants to submit declarations on inability to locate records on discovery application. This is why applicant has little faith in declarations, affidavits, or depositions. The truth of the matter is only found on admissions of evidence where the truth of the matter exists, and interrogatories.

Appendix 17 proves factually that applicant has a severe neuropsychiatric disorder at the time Dr. Klemperer or as Dr. Lash found "he has a terrific number of phobias . . . admit for psychiatric treatment and evaluation."

Was Dr. Baker correct where he found the condition pre-existed military service? Not according to Appendix 22 where applicant was found to be physically qualified for retention in military service. Does the final medical

certificate at Appendix 20 include the diagnosis of Dr. Klemperer or Dr. Lash? Should that record be corrected to show the diagnosis of Dr. Lash and Dr. Klemperer? Yes.

And the foregoing issue of correction of Appendix 20 is all Judge Ingram wanted to adjudicate, and is the reason applicant wanted compliance with Fed.R.Civ.P. 62(a), (g) and (h) which are cited in full at the Jurisdiction alleged in Part II of this application until judgment or additional judgments result in full adjudication on the entire case of multiple claims and multiple parties.

At Appendix 15 is another letter from the agency noted on the letterhead that she was sorry for the delay in securing records. THAT LETTER WAS DATED Feb. 19, 1997 and the records sought still have not been released to me which was required by the law stated on the letter.

The foregoing negligence is the legal or proximate cause of injury to applicant thereby incurring the strict liability of the United States for money damages of $30,000,000.00 for 55, now and still counting, for pain and suffering, emotional stress, 55 years of anxiety and panic attacks, post service loss of wages due to inability to engage in gainful, substantial employment opportunities. 28 U.S.C. §§ 1346(b) and 2674.

WHEREFORE: JUDGMENT IS ENTERED FOR APPLICANT AND AGAINST RESPONDENT UNITED STATES OF AMERICA THE JUDGMENT IS NOW ENFORCEABLE AS ORDERED BY THE UNITED STATES SUPREME COURT. DO NOT DELAY PAYMENT OF DAMAGES TO APPLICANT OR SEVERE ACTION SHALL BE FORTHWITH AGAINST THE OFFENDING PARTY.

V.

REASON FOR GRANTING THE WRIT

The Ninth Circuit will not enter a final judgment on the entire case, the Ninth Circuit will only enter a final judgment on the interlocutory judgment at Appendix 5. And therein lies the existing dispute between the Ninth Circuit and this humble and ill-trained applicant. The federal questions presented to this Court all deal with the legal questions arising under the right to adjudicate all claims, rights and liabilities of the parties protected by Const. Art. III Section 2, Amendment V right to due process, Fed.R.Civ.P. 16(e) absent in this case due to Judge Ingram's rush to judgment at Appendix 5.

Judge Aguilar also make a rush to judgment at Appendix 6 where he found at Motion to Dismiss, the withholding of Dr. Lash's diagnosis was a negligent oversight. Applicant alleges Judge Aguilar in an abuse of judicial discretion dismissed a valid claim for judgment, shown at Appendix 17 while the evidence shown at Appendix 16 is another negligent or wrongful act or omission to act with regard to signing an invalid waiver which is against the best interests of the applicant and should be deleted from the record, or expunged from the record.

The Ninth Circuit pre-filing review order Appendix 1-4 clearly shows abuse of judicial discretion on the part of the Ninth Circuit. The Ninth Circuit orders at Appendix 104 must be set aside in the best interests of justice in order that applicant may pursue the other claims cited at Part IV of this application.

The issues cited at Part IV of this application have been cited time and time again to both the Ninth Circuit

and to the several district courts which the dismissal orders of the various district courts are included in the pre-filing review orders at Appendix 1-4. There are several more of these orders at Appendix 1-4 which say the same things as are at Appendix 1-4.

If the court elected, it has the discretion, to call up the entire case file from Appendices 1-4 for a complete review for an abuse of judicial discretion by the Ninth Circuit and the district courts at San Jose, CA, Seattle, WA, Reno, NV, and Spokane, WA. The Court will find an abundance of abuses of judicial discretion by way of order to show cause why the complaint should not be dismissed, etc. Denial of discovery and admissions of evidence.

Or, in the alternative, the Court has unlimited power or as to say Fed.R.Civ.P. 62(g) Power of Appellate Court Not Limited. Which is to say, and Rule 62 is cited in full at Part II Jurisdiction, that the Court has the appellate power to end this case, by complying with the claim for relief which concludes the end of Part IV of this application.

The Ninth Circuit had this same authority to end this case under 62(g) and (h). Accordingly, this Court, now has the same power to end this case as sought at the conclusion of Part IV of this application.

In such case there would be no need to call up the records from below. Such call up of the entire record would be lengthy and voluminous.

Applicant assures the Court that call up of the entire record would only be extremely embarrassing to several district court judges and the Ninth Circuit Judges.

Applicant is not interested in some form of "discipline" to judges below for abuse of discretion. Applicant's only desire is for this Court to end this matter as set forth at the conclusion of Part IV of this Application as authorized by Rule 62(a), enforcement, (g) to end this case, to modify Appendix V according to the issues in Part IV of this application, (g) there is no need to continue this case for further proceedings the evidence shows at the several Appendices already set forth clearly shows the applicant has proven his case by reason of evidence, and not by way of deposition, interrogatories, declaration, or affidavits.

The truth of the matter is found at evidence offered in Part IV of this application and no other place. Moreover, a judgment for post-service loss of wages means the IRS will get a chunk of that dough for unpaid taxes, Social Security and Medicare taxes which eminently satisfactory to applicant because he will get a raise in Social Security payment from the current $812 per month to the maximum amount.

Applicant has informed the Ninth Circuit and the several district courts that if they want to enter final judgment as to the entire case on Appendix V they must ward applicant $30,000,000.00 because Judge Ingram has no authority to order disability pay to any agency, 28 U.S.C. § 1346(d) which applicant believes Judge Ingram was going to do. We will never know because of the absence of any money award, or other disposition.

Besides in the disability pay claim made to United States Claims Court No. 490-85-C (Harkins) in Memorandum of Decision of March 6, 1985 disability status and pay was denied. Accordingly, immunity under the Feres Doctrine for a damages claim should be waived by the

Court. Judge Harkins had ample opportunity to establish disability status and pay under Sections 403 and 404 of Appendix 26, but elected to not follow the law. The foregoing is only advisory to the Court.

The other respondents elected to ignore applicant's rights under Sections 403 and 404 of Appendix 26 and should not be rewarded by this Court to immunity under the Feres Doctrine which makes it clear that disabled Veterans are entitled to compensation under the Veterans Benefit Act. Is the foregoing a compound statement to the Court?

With respect to damages for inability to engage in post-service employment opportunities, that is a separate relief from the damage claim. For example applicant claims loss of wages in the amount of $500,000.00 which covers the year from 1952 to age 65 at 1997. Such award may be deducted from the damages award as applicant alleges no taxes were taken from compensatory damages. That may be taken by the Court as punitive in nature and therefore taxes are paid on punitive damages.

Applicant believes he was shown argument and evidence necessary for the Court to GRANT applicant's application for writ of certiorari to the United States Court of Appeals for the Ninth Circuit Pre-filing Review Order No. 92-80380. Before the entry of final judgment on Appendix V which shall be as argued amended and finalized in this Court as to proof of claims proven by the evidence in Part IV of this application. Judge Ingram nor any other court would allow such admissions that are found in Part IV of this application.

As to the $30,000,000.00 in compensatory damages demanded at Appendix 12 and in Appendix 6, such an amount is no longer a settlement issue under 28 U.S.C.

§ 2672 as respondents have had over 23 years to negotiate a settlement under law.

The amount of damages lies within the discretion of the Court as to what 55 years of pain and suffering, emotional stress, mental anguish are worth including 55 years of anxiety attacks and panic attacks. Once this Court issues an opinion on the amount of damages sought then the Court must prepare an order to modify Appendix V in accordance with the evidence at Part IV of this application, sign the Order and serve the order on all parties, including the Ninth Circuit who then enters the final judgment in the civil docket of the Ninth Circuit, and on the district court at San Jose, CA, Seattle, WA, and Reno, NV, who shall enter the judgment in the civil docket with appropriate district court numbered cases pertaining to this action.

A copy of the Judgment should probably be sent to the United States Court of Federal Claims with a notation that the Judgment be entered in the civil docket in that case pertaining to No. 499-85-C (Harkins), and a short commentary that the court should have awarded disability status and pay to the applicant while it had the opportunity to afford immunity to the United States from civil damages but failed or refused that task. See sections 403 and 404 of Appendix 26.

VI.

CONCLUSION

Applicant has submitted evidence at Part IV of this application that warrants jurisdiction of this Court under Supreme Court Rule 11, 28 U.S.C. § 2101(e) and Fed.R.Civ.P. 62 which gives the appellate court unlimited power to alter,

amend modify or otherwise enter a final judgment in this case under 28 U.S.C. § 2412(d)(2)(G) based on the evidence submitted in Part IV of this application which no court below would allow admissions.

The lower courts have abused the judicial discretion in not making a trial court order under Fed.R.Civ.P. 16(e) where such order controls the subsequent course of the proceedings thereby passing appellate jurisdiction to the Ninth Circuit to comply with Rule 62 which failed to exercise its unlimited power to alter, amend and modify Appendix V thereby placing the burden on this Court to alter, amend and modify to enforce the judgment reached in this Court on the evidence in Part IV of this application where applicant has proven to this court without affidavits, declarations, answers to interrogatories and depositions.

Applicant in Part IV submission of evidence has met his burden of proof on the federal question of negligence and liability of the United States under 28 U.S.C. §§ 1346(b) and 2674. Therefore this application cannot be denied.[1]

Respectfully submitted,

DELBERT H. REIDT applicant pro se

Dated: June 7, 2007

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[1] With respect to Appendix 7, that was made in error as the Court will not grant petition for Writ of Certiorari to review for abuse of judicial discretion. It may take into consideration a claims or allegation of abuse of judicial discretion on an application for Writ of Certiorari before entry of judgment in that court under Supreme Court 11, 28 U.S.C. § 2101(e) and Fed.R.Civ.P. 62. Applicant is happy to clarify Appendix 7.

APPENDIX 1

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

In re: DELBERT H. REIDT, Respondent,	No. 92-80380 DC# CV-84-20566 ~~RAP~~ RPA Northern California ORDER (Filed Mar. 16, 2007)

Before: CANBY, TROTT and FISHER, Circuit Judges.

This court has reviewed the petition for writ of certiorari and accompanying documents lodged February 13, 2007 pursuant to the pre-filing review order entered in this docket. Because the petition lacks merit, it shall not be permitted to proceed.

No motions for reconsideration, rehearing, clarification, stay of the mandate, or any other submissions shall be filed or entertained in this closed docket.

APPENDIX 2

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

In re: DELBERT H. REIDT, Respondent,	No. 92-80380 D.C. No. CV-89-20527-WAI Northern District of California ORDER (Filed Jul. 21, 2006)

Before: B. FLETCHER, HAWKINS and THOMAS, Circuit Judges.

This court has reviewed the petition for writ of certiorari and accompanying documents lodged June 23, 2006 pursuant to the pre-filing review order entered in this docket. Because the petition lacks merit, it shall not be permitted to proceed. Respondent has been attempting to challenge the judgment in the above-referenced district court docket, CV-89-20527-WAI, for over 15 years. The Clerk is instructed to return to respondent without lodging or filing any further appeals, petitions, or other filings submitted by respondent relating to the above referenced district court docket.

No motions for reconsideration, rehearing, clarification, stay of the mandate, or any other submissions shall be filed or entertained in this closed docket.

APPENDIX 3

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

In re: DELBERT H. REIDT, Respondent,	No. 92-80380 D.C. No. CV-05-553-ECR District of Nevada, Reno ORDER (Filed Feb. 28, 2006)

Before: SCHROEDER, Chief Judge, GOODWIN and O'SCANNLAIN, Circuit Judges.

This court has reviewed the petition for writ of mandamus and accompanying documents lodged January 25, 2006 pursuant to the pre-filing review order entered in this docket. Because the petition lacks merit, it shall not be permitted to proceed. All other pending motions are denied.

No motions for reconsideration, rehearing, clarification, stay of the mandate, or any other submissions shall be filed or entertained in this closed docket.

APPENDIX 4

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

In re: DELBERT H. REIDT, Respondent,	No. 92-80380 D.C. No. CV-04-2512-C D.C. No. CV-98-1725-C Western District of Washington, ORDER (Filed Apr. 12, 2005)

Before: KOZINSKI, HAWKINS and CLIFTON, Circuit Judges

This court has reviewed the petitions for writ of mandamus and accompanying documents lodged March 11, 2005 and March 28, 2005 pursuant to the pre-filing review order entered in this docket. Because the petitions lack merit, they shall not be permitted to proceed.

No motions for reconsideration, rehearing, clarification, stay of the mandate, or any other submissions shall be filed or entertained in this closed docket.

APPENDIX 5

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

DELBERT H. REIDT, Plaintiff, v. SAN FRANCISCO OFFICE OF THE DEPARTMENT OF VETERANS AFFAIRS, Defendant.	CASE NOS.: C-89-20527-WAI RELATED CASE NO.: C-88-20720-WAI; C-84-20566-RPA; C-89-20508-SAW; C-89-20509-FMS; C-89-20510-WAI; C-89-20526-RFP; C-89-20554-WAI. (Filed Dec. 14, 1989)

In this dispute, plaintiff seeks recovery for defendant's failure to correct his medical records pursuant to the Privacy Act, 5 U.S.C. 552a(d)(3). Defendant moves to dismiss on the grounds that plaintiff has failed to allege any factual or historical error as required by the Act. However, plaintiff's claim that the diagnosis by the Board of Medical Survey was incomplete because it failed to take into account a diagnosis by Dr. Lash is sufficient to state a claim. Therefore, defendant's motion is DENIED.

IT IS HEREBY ORDERED that both parties filed cross-motions for summary judgment within 30 days from the filing date of this order.

DATED: 12 12 89

/s/ [Illegible]
WILLIAM A. INGRAM
United States District Judge

The Plaintiff refused to file cross-motion for summary judgment on Jan. 4, 1990. The ground for refusing to file cross-motion was on the ground the Order did not comply with Fed.R.Civ.P. 16(e). There was no stipulated agreement as to the issue on trial prescribed by Rule 16.

Since plaintiff refused to file cross-motion within the 30 days required by the Order above it cannot be enforced. The above order can only be enforced if plaintiff had complied with the order.

This summary judgment is similar to the pre-trial order required by Rule 16(e), except it does not adjudicate any other claim made by any party. For example there is no provision for a *Feres* bar to be adjudicated.

As a consequence the Order is now void and plaintiff is free to file a new complaint as to the entire case. In fact, the 9th Circuit cannot produce, from any court in the Federal System, any pre-trial order that complies in all respects with Fed.R.Civ.P. 16.

This Order is again rejected on April 9, 2006.

Dated: April 9, 2006

/s/ Delbert H. Reidt
Delbert H. Reidt pro se

APPENDIX 6

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

DELBERT REIDT, Plaintiff, vs. UNITED STATES of AMERICA, Defendant.	NO. C-84-20566 RPA ORDER GRANTING MOTION TO DISMISS (Filed Jun. 28, 1985)

The Court has received, read and considered the pleadings submitted in this case, and heard the arguments of counsel, and, good cause appearing therefor, enters the following order:

Plaintiff was seen at a United States Public Health Service Hospital in Seattle, Washington in 1952. Plaintiff was in the Coast Guard at the time, on medical furlough. He was diagnosed as having a phobic neurosis, but the only diagnosis disclosed to plaintiff and to the Coast guard was that he had an inadequate personality of the schizoid type. Plaintiff subsequently signed a waiver aknowledging that since his problem was only an inadequate personality, he was not entitled to a military pension.

Plaintiff alleges that, had he and the Coast Guard been informed of the diagnosis of neurosis, he would have applied for, and likely have been granted, service-connected disability. Because the neurosis did not appear on his record, however, his numerous applications for disability to the Veteran's Administration and to the Department of Transportation (Coast Guard) Board of Correction of Military Records have been denied.

Defendant's motion to dismiss this case is before this Court for the second time. On February 4, 1985, this Court granted the motion but gave the plaintiff 60 days in which to amend his complaint to allege, if he could, deprivation of a constitutional right.

This Court, in its first order, found that plaintiff's claim under the Federal Tort Claims Act was barred by the *Feres* doctrine. Plaintiff asserts that this Court should reconsider that finding in light of *Broudy v. United States,* 722 F.2d 566 (9th Cir. 1983). However, in *Broudy* the government's discovery of the dangers of radiation only occurred after the plaintiff was discharged from service. Thus, the failure to warn was an independant tort, and did not fall within the *Feres* doctrine. In the case at bar, plaintiff himself asserts that the government discovered plaintiff's neurosis while he was still in active service. Therefore, this Court's holding that the tort in this case is a continuing one and not an independant one, and therefore falls within the *Feres* doctrine, is fully in accord with *Broudy.*

Plaintiff asserts a cause of action under 42 U.S.C. S 1983. § 1983 provides a remedy for the deprivation of a constitutional right. It has a threshhold requirement that the alleged deprivation be done "under color of state law." § 1983 cannot apply to actions taken by federal agencies or employees, unless they were enforcing or acting under the authority of state law. *Stonecipher v. Bray,* 653 F.2d 398 (9th Cir. 1981), *cert. den.* 454 U.S. 1145 (1982).

The conduct that the plaintiff challenges was taken by federal employees of the United States Public Health Service. None of them appear to have been acting in any way to carry out state law or state policy. They were acting

in the scope of their duties as federal health officials. Therefore, it seems that the plaintiff cannot establish the first element of a prima facie case for a cause of action under § 1983.

42 U.S.C. § 1985 provides a remedy where individuals have conspired to deprive someone of their constitutional rights. While it does not require state action, it does require a showing of invidious discriminatory motivation. *Griffin v. Breckenridge,* 403 U.S. 88, 102 (1971). Plaintiff is asserting mere negligence on the part of the doctors involved, and has not suggested that their failure to reveal the complete diagnosis was anything more than a negligent oversight. He makes no allegations at all about a discriminatory motive or a conspiracy, nor do these appear from the materials he has submitted. Therefore, plaintiff does not state a claim under § 1985.

Another possible remedy for plaintiff might be found in a combination of *Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics,* 403 U.S. 388 (1971), and *Thornwell v. United States,* 471 F. Supp. 344 (D.C.D.C. 1979). *Bivens* establishes a cause of action against federal agents for violations of constitutional rights. *Thornwell* states that where unconstitutional conduct is involved, the *Feres* doctrine does not apply.

As this court noted in its first Order, there has been some serious doubt cast on the validity of the *Thornwell* holding. Just two days after the *Thornwell* decision, another district judge from the D.C. district ruled that constitutional claims under *Bivens* were not exempt from the *Feres* doctrine. *Nagy v. United States,* 471 F. Supp. 383 (D.C.D.C. 1979). Other courts have supported this latter ruling, noting that to allow an exemption for constitutional

torts would hinge plaintiffs' chances for success on an exercise in pleading. *Schmid v. Rumsfeld,* 481 F. Supp. 19, 21 (N.D.Cal. 1979); *Laswell v. Brown,* 683 F.2d 261, 267-268 (8th Cir. 1982).

Even if *Thornwell* is still valid law, however, plaintiff has not shown a deprivation of a constitutional right. In *Thornwell,* the plaintiff was given a hallucenogenic drug without his knowledge. The government failed to inform him of this or treat him for the long-term effects it produced. The *Thornwell* court focussed on the fact that the government had caused the initial injury, and that this contributed to the strong inference that the continued failure to warn and to treat were intentional. In addition, the government's conduct in administering the drug in the first place led the court to characterize the failure to warn as outrageous conduct that shocks the conscience.

In the case at bar, on the other hand, the government had no apparent role in the onset of plaintiff's condition. The doctor's failure to disclose the full diagnosis was merely negligent. There is no indication that the government's conduct was at any point outrageous.

The only constitutional claim this plaintiff appears to raise is the procedural due process right to a hearing before the denial of an entitlement. *Cf. Goldberg v. Kelly,* 397 U.S. 254 (1970). However, plaintiff was not denied this right, because he was accorded several hearings before two administrative boards about his applications for disability benefits.

Plaintiff asserts a deprivation of his right to receive adequate medical treatment and be fully informed of any diagnoses. These interests may generally be protected under tort law, but the invasion of these interests is not so

serious in this case as to state a constitutional claim. Plaintiff's casuses of action sound in tort, and unfortunately, he is barred from recovery by the *Feres* doctrine.

Accordingly, defendant's motion to dismiss is GRANTED with prejudice.

IT IS SO ORDERED.

Dated: June 28, 1985.

/s/ Robert Aguilar
ROBERT P. AGUILAR
United States District Judge

APPENDIX 7

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

In Re: DELBERT H. REIDT, Respondent.	NO. 92-80380 NOTICE OF PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR NINTH CIRCUIT NO. 92-80380 TO THE UNITED STATES SUPREME COURT

The attached hereon Order is being sent to the United States Court for review on certiorari.

The basis for review is:

> Did the Ninth Circuit abuse its judicial discretion where it refused to: reconsider, rehear, clarify, stay of the mandate or any other submission shall be filed or entertained in this closed docket?

Respondent alleges he is entitled to a reconsideration, rehearing, clarification stay of the mandate in this matter

It is alleged by respondent that this Order must be vacated in the best interests of justice by the Supreme Court of the United States.

This Court rules there is a judgment. I have never recived any final judgment or order of settlement required by 28 U.S.C. § 2412(d)(2)(G).

This Court has refused to reverse and remand judgments on mere allegations alone in order to avoid a final judgment on mere pleading allegations alone. Bell v.

Preferred Life Assurance Society of Montgomery Ala., 320 U.S. 238, 240, 64 S.CT. 5, 8, 88 L.ED. 15, 16 (1943).

This Court has sanctioned the lower courts to abuse its judicial discretion by refusing to make a proper trial court order under Fed.R.Civ.P. 16(e). This Court is attempting to compel respondent to comply with the summary judgment in No. CV-89-20527WAI (DC ND CA, Dec. 14, 1989).

Respondent believes and alleges Judge Ingram abused his judicial discretion by ordering respondent to file cross-motion for summary judgment. Respondent alleges no judge in the United States has any discretion to make pre-trial orders such as ORDER TO SHOW CAUSE as such orders are an abuse of judicial discretion.

The petition is due at the Supreme Court no later than June 19, 2007 which is 90 days after receipt of that attached hereon order dated March 16, 2007 which respondent did not receive until March 19, 2007. The publisher assures me the petition can be made ready no later than June 10, 2007. So, the petition will be timely filed. See: Supreme Court Rule 13.1, and 28 U.S.C. § 2101(d).

Respondent could not move for new trial in any case in this docket because there was no judgment to alter under Fed.R.Civ.P. 59(e), **nor could respondent move for relief from judgment under Fed.R.Civ.P. 60.**

It has been one case after another of abuse of judicial discretion in the district court and then in this Court on appeal or writ of certiorari. It is clear to respondent that if relief is to be had, relief must come from the United States Supreme Court in a supervisory capacity to discontinue abusing respondent's due process of law rights, his

equitable rights in the United States Constitution, in particular Art. III, Section 2.

How can this Court rule there is a judgment when it has been over 17 years and still no judgment has been served on respondent. Respondent is going to DEMAND the Supreme Court order this Court to produce any "judgment" alleged by this Court. This Court has the burden of proof to serve respondent any copy of some judgment.

This Court has engaged in causing an unnecessary delay of 17 years by failure or refusal to enter a final judgment under FRAP 35, Ninth Circuit Rule 35, nor has there ever been any order of settlement prescribed and MANDATED by 28 U.S.C. § 2412(d)(2)(G).

Respondent will DEMAND the Supreme Court find sanctions against this Court for 17 years of abuse of judicial discretion in the amount of twenty five thousand dollars ($25,000.00) due to unnecessary delay in a final judgment.

This case could have been concluded 17 years ago had this Court held a hearing under Rule 59(c), Fed.R.Civ.P. and taken additional evidence and altered or amended Judge Ingram's interlocutory order which is not valid because respondent rejected the interlocutory order as final until the issue of damages had been decided, Fed.R.Civ.P. 56(c).

If the United States Supreme Court finds this Court has negligently withheld from respondent any order to pay damages, that order must be altered or amended in Fed.R.Civ.P. 59(c) to take into account all of the pain and suffering, emotional stress, mental anguish inflicted on respondent for 17 years and award damages accordingly.

Mailed to the Office of the
Clerk, U.S.C.A.
95 Missions St.
P.O. Box 193939
San Francisco, CA. 94119-3939
by first class mail with 2 copies

Att'n Doc. 92-80380

NOTICE OF CERTIORARI

DATED: MAY 22, 2007

Respectfully Noticed,

/s/ Delbert H. Reidt

Delbert H. Reidt respondent
9420 49th Ave. West
Apt. 20K
Mukilteo, WA. 98275-3750
Tel. 1-425-941-7865

APPENDIX 8

DESCRIPTION OF RECORDS	AUTHORIZED DISPOSITION
Health and Medical Records (cont'd)	
e. Photoflurographic logs such as NAVMED 1161.	DESTROY 10 years from date of latest entry. Transfer to FRC when 5 years old.
f. Reports, logs and forms not otherwise provided for and used for the administration of medical activities and in the treatment of patients.	DESTROY when 3 years old.
154. Clinical Health Records. These records include documents pertaining to Coast Guard active duty military, reservist, military dependents, retirees, humanitarian and foreign nationals cases. Included are clinical folders for each individual containing medical and dental forms and related documents of outpatient/inpatient treatment.	
a. Military personnel clinical records (active duty, reservist and retired personnel)	

1. Outpatient	TRANSFER to NPRC(MPR) 9700 Page Boulevard, St. Louis, MO 63132, 2 years after last activity. DESTROY 50 years from the date of the latest document in record.
2. Inpatient	TRANSFER to NPRC(MPR) 9700 Page Boulevard, St. Louis, MO 63132, 2 years after last activity. DESTROY 50 years from the date of the latest document in record.
b. Military dependent clinical records, and humanitarian cases.	
1. Outpatient	TRANSFER to NPRC(CPR) 111 Winnebago Street, St. Louis, MO 63118, 2 years after last activity. DESTROY 25 years from the date of the latest document in record.

APPENDIX 9

U.S. Department of Transportation
United States Coast Guard

[LOGO]
Commandant
United States Coast Guard

Washington, D.C. 20583-0001
Staff Symbol: G-PIN-2
Phone: (202)267-1623

5720
20 APR 1989

Mr. Delbert H. Reidt
2118 Canoas Gardens Avenue
Apartment 250
San Jose, CA 95125

Dear Mr. Reidt:

My branch is the custodian of Coast Guard military personnel records. For that reason, your letter of April 4, 1989, has been forwarded to me for response. When a person is discharged from the Coast Guard, the service record is forwarded to the National Personnel Records Center in St. Louis for file.

I have ordered your records from the Center. It will take approximately 30 days for me to receive them. As soon as they arrive, I will write to you again.

Sincerely,

/s/ T.H. Specht
T. H. SPECHT
Lieutenant, U.S. Coast Guard
Chief, Military Records Branch
by direction of the Commandant

APPENDIX 10

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA
WILLIAM A. INGRAM. JUDGE
UNITED STATES COURT HOUSE
280 SOUTH FIRST STREET
SAN JOSE, CALIFORNIA 95113

July 31, 1995

Delbert H. Reidt
10115 Holly Drive, Bldg. B305
Everett, WA 98204

Dear Mr. Reidt:

I am in receipt of your letter of July 26, 1995 requesting discovery sanctions against the United States Attorney's office.

You do not have any matter currently pending before this court. Moreover, you are under a "No-Filing Order" in the Northern District of California.

You have previously been informed that this court has limited resources and cannot spend its valuable time on matters not properly before it. While you may continue to send letters if you desire, you should not expect the court to respond to any further correspondence.

Sincerely,

/s/ William A. Ingram
William A. Ingram

APPENDIX 11

[LOGO] DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary

Office of the General Counsel
Washington, D.C. 20201

JUN 26 1984

CERTIFIED – RETURN
RECEIPT – REQUESTED

Delbert Reidt
5523 Tyhurst Ct. #3
San Jose, California 95123

Re: Administrative Tort Claim

Dear Mr. Reidt:

This is in response to your letter of June 16, 1984 in which you allege that the Office of General Counsel of this Department was negligent in denying your claim for negligence against the Public Health Service, by letters dated June 25 and July 14, 1982. The basis for the denial was twofold, (1) on the merits and (2) the *Feres Doctrine, (Feres* v. *United States,* 340 U.S. 135 (1950)) since the alleged negligent treatment you received at the Public Health Service Hospital, Seattle was incident to military service.

The basis for your present claim is that you recently received your entire service folder from the United States Coast Guard. In that record is a copy of the form used to authorize the Public Health Service to provide medical service to Coast Guard personnel. One part of the form is a Return Medical Certificate on which it is stated by the

examining physician that the medical problem you displayed was not "Incident of service".

You have equated the use of the terms "incident to military service" and "incident of service" in each case as having the same meaning. They do not.

The reference in the medical record means that the condition for which you were treated was not considered to be service connected, that is, not due to something that had happened to you, up to that time, while you were in the Coast Guard. This information was transmitted to the Coast Guard for future use in the event you requested benefits for a service connected injury.

APPENDIX 12

[LOGO] DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary

JUN 25 [Illegible]

Office of the General Counsel
Washington, D.C. 20201

CERTIFIED – RETURN
RECEIPT REQUESTED

Mr. Delbert Haven Reidt
260 Tradewinds Court #4
San Jose, California 95123

Re: Claim of DELBERT HAVEN REIDT

Date of Incident: May 16, 1952

Date Claim Filed: December 28, 1981

Amount of Claim: $30,000,000.00

Dear Mr. Reidt:

Your claim for damages is hereby denied. As a member of the Coast Guard your evaluation and diagnosis at the PHS Hospital, Seattle, Washington in 1952 was incident to your military service. The United States is not liable under the Federal Tort Claims Act for alleged personal injury suffered by a member of the armed forces which is incident to his or her military service. This is based on a decision of the United States Supreme Court in *Feres* v. *United States,* 340 U.S. 135 (1950). Furthermore, there is no evidence that the diagnosis of schizoid personality made in 1952 was either incorrect or the result of negligent conduct by a federal employee. As Dr. Tasto, your psychologist states, agoraphobia has only recently been recognized for the problem that it is.

If you are dissatisfied with this final determination, you may institute suit in the appropriate United States District Court within a period of six (6) months from the date of mailing of this determination.

Sincerely yours,

/s/ [Illegible]
Sarah Hertz, Chief
Litigation and Claims Branch
Business and Administrative
Law Division

APPENDIX 13

NOTIFICATION OF RECEIPT OF FOIA REQUEST:

PART I – ACKNOWLEDGEMENT

On 7-18-95 the National Personnel Records Center received your request made under the provisions of the Freedom of Information Act

Because of the number of inquiries we are receiving, additional time will be required to complete action on your request. Every effort will be made to respond as promptly as possible.

If it is necessary to write to us again, please enclose this notice.

PART II – (applicable only if checked below) FREEDOM OF INFORMATION ACT AND THE RIGHTS OF INDIVIDUALS SEEKING ACCESS TO RECORDS ABOUT THEMSELVES

☐ It was not necessary for you to cite the Freedom of Information Act (FOIA) when you sent us your recent request. You would have been granted access to the information/records without citing the Act. The FOIA is a disclosure statute granting access to the public to final opinions and orders of agencies, policy statements and interpretations not published in the *Federal Register* and to certain other Federal records. This Act is not designated for use by individuals seeking access to records about themselves. Inquiries of this nature fall within the provisions of the Privacy Act (5 U.S.C. 552a).

The Privacy Act covers records which are retrievable by the name of an individual or by other individually identifiable data. Each agency must annually publish a listing in the *Federal Register* of the record systems

which it maintains. The individual identified in the record must be granted a right of access to the file and must be given a right to challenge the accuracy of the information contained in it, a provision that is not included in the FOIA. The individual also may authorize a third party access to information or copies of these records. In addition, the parent of a minor or the legal guardian of an individual who has been declared to be incompetent may act on behalf of the individual.

Whenever the FOIA is cited in a request, even if not needed, we must maintain certain statistical data for the annual report required by the Congress. The special controls and additional paperwork required for FOIA requests merely increases the time it normally takes us to answer a request. Therefore, in the interest of saving time, we urge that the FOIA not be cited in requests such as the one that we are responding to at this time. Please be assured that no information or record will be withheld that would be released under FOIA procedures.

Thank you for your cooperation.

Delbert H. Reidt
537-28-4166
—

CG0-0013936
✓
7-26-95

Delbert H. Reidt Pro Per 10115 Holly Dr., Bld. B305 Everett, Wa. 98204	NCP /s/ F MOC/RG JOHN L. CARVER Chief, Military Operations Branch NATIONAL PERSONNEL RECORDS CENTER ☒ Military Personnel Records 9600 Page Avenue St. Louis, MO 63132-5100 ☐ Civilian Personnel Records 111 Winnebago Street St. Louis, MO 63118-4199 DATE: 7-26-95

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

APPENDIX 14

NOTIFICATION OF RECEIPT OF FOIA REQUEST

PART I – ACKNOWLEDGEMENT

On 7/20/95 the National Personnel Records Center received your request made under the provisions of the Freedom of Information Act

Because of the number of inquiries we are receiving, additional time will be required to complete action on your request. Every effort will be made to respond as promptly as possible.

If it is necessary to write to us again, please enclose this notice.

PART II – (applicable only if checked below) FREEDOM OF INFORMATION ACT AND THE RIGHTS OF INDIVIDUALS SEEKING ACCESS TO RECORDS ABOUT THEMSELVES

☑ It was not necessary for you to cite the Freedom of Information Act (FOIA) when you sent us your recent request. You would have been granted access to the information/records without citing the Act. The FOIA is a disclosure statute granting access to the public to final opinions and orders of agencies, policy statements and interpretations not published in the *Federal Register* and to certain other Federal records. This Act is not designated for use by individuals seeking access to records about themselves. Inquiries of this nature fall within the provisions of the Privacy Act (5 U.S.C. 552a).

The Privacy Act covers records which are retrievable by the name of an individual or by other individually identifiable data. Each agency must annually publish a listing in the *Federal Register* of the record systems

which it maintains. The individual identified in the record must be granted a right of access to the file and must be given a right to challenge the accuracy of the information contained in it, a provision that is not included in the FOIA. The individual also may authorize a third party access to information or copies of these records. In addition, the parent of a minor or the legal guardian of an individual who has been declared to be incompetent may act on behalf of the individual.

Whenever the FOIA is cited in a request, even if not needed, we must maintain certain statistical data for the annual report required by the Congress. The special controls and additional paperwork required for FOIA requests merely increases the time it normally takes us to answer a request. Therefore, in the interest of saving time, we urge that the FOIA not be cited in requests such as the one that we are responding to at this time. Please be assured that no information or record will be withheld that would be released under FOIA procedures.

Thank you for your cooperation.

Reidt, Delbert H. CG0 0000 013936
0293784

Delbert H. Reidt 10115 Holly Drive, Bldg. B305 Everett, WA 98204	NCP MOI /S/ LW JOHN L. CARVER Chief, Military Operations Branch NATIONAL PERSONNEL RECORDS CENTER ☒ Military Personnel Records 9700 Page Avenue St. Louis, MO 63132-5100 ☐ Civilian Personnel Records 111 Winnebago Street St. Louis, MO 63118-4199 DATE: 7/20/95

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

APPENDIX 15

U.S. Department of Transportation
United States Coast Guard

[LOGO]

Commandant
United States
Coast Guard

2100 Second Street, S.W.
Washington, DC
20593-0001
Staff Symbol: (G-SII-2)
Phone: (202)267-1273
FAX: (202)267-4814

5720/A96-013
FEB 19 1997

Mr. Delbert Reidt
10115 Holly Drive
Building B-305
Everett, WA 98204

Dear Mr. Reidt:

This is in response to your letter dated February 3, 1997, requesting the status of your Freedom of Information Act appeal (A96-013). We are still working to clear our backlog of appeals.

Our records indicate that there are 107 appeals currently on file. Of these 107 appeals, there are 92 appeals requiring resolution before yours. We will continue to provide you with periodic updates on the status of your appeal.

We regret any inconvenience this delay may cause. In the event future correspondence regarding your appeal is required, please include the FOIA Appeal Case Number and refer it to:

Commandant (G-SII-2)
United States Coast Guard
Attn: FOIA/PA Officer
2100 Second Street, S.W.
Washington, DC 20593-0001

Sincerely,

/s/ B. Parker
B. PARKER
Chief, Management, Programs
and Policy
U. S. Coast Guard
By direction of the Commandant

APPENDIX 16

STATEMENT IN ACCORDANCE WITH PERSONNEL CIRCULAR NO. 51-51 U.S. COAST GUARD

WAIVER OF RIGHTS TO A FULL AND FAIR HEARING

16 May, 1952.
(Date)

I hereby certify that it has been fully explained to me that the Board of Medical Survey before which I appeared has found that I am suffering from a personality defect (physical disability), namely Schizoid personality, 000-x42, and that this defect (disability) existed prior to my initial or current entry into the U. S. Coast Guard on 10 December, 1951, and was neither incurred in, nor aggravated by, a period of Military Service.

I further certify that it has been fully explained to me that under Section 413 of the Career Compensation Act of 1949 and the regulations published by the Secretary of the Treasury for the administration of Title IV of the Career Compensation Act of 1949 I am entitled, as a matter of right, to a full and fair hearing before a Physical Evaluation Board prior to my separation from the U. S. Coast Guard if I demand such hearing.

I further certify that it has been fully explained to me that if I sign this waiver I shall be separated from the U. S. Coast Guard in the near future without further hearing and without disability retirement pay or severance pay and without any compensation whatsoever; however, all payments ordinarily accruing to personnel discharged under honorable conditions are due and payable.

With full knowledge of the findings of the Board of Medical Survey convened in my case and with full knowledge of my

rights in this matter I hereby waive my right to a hearing by a Physical Evaluation Board and request that I be separated from the U. S. Coast Guard as soon as possible.

/s/ Delbert Haven Reidt
(Signature)
Delbert Haven Reidt, SA
(293-784) U. S. COAST
GUARD.

Witnessed by:
/s/ [Illegible]
[Illegible] SCHNORR,
Surgeon, USPHS
USPHS. Hospital,
Seattle, Wn.

Subscribed and sworn to before me this 16 day of May, 1952, I having the authority to administer oaths.

/s/ [Illegible]
M.G. JORDAN
(Signature)

LTJG. U. S. COAST GUARD.
(Rank)

Statement attached to [Illegible] Board of Survey on REIDT, D. [Illegible] H. (293-784) SA. U.S. Coast Guard, dated 16 May, 1952.

I have been informed of the attached Medical Board of Survey and I do not care to make a statement in rebuttal.

/s/ Delbert Haven Reidt
Delbert Haven Reidt, SA
(293-784) U. S. COAST GUARD

APPENDIX 17

5-13-52 This 19 yr. old with C.G. went AWOL from Thomas yesterday A.M. Saw a L.M.D. there for N.P. [illegible] & was referred here.

Pt. feels he is "cracking up" – is afraid of water, guns – "everything seems funny when the sun shines" – he's insomniac, is here for a terrific number of phobias – in general is a severe N.P. case.

Admit for Dx & Rx – R.L. Lash.

This pt. is AWOL – restricted – do not give pass.
R.L.

05/16/52 Walking around Ward & [illegible]; [illegible]. Worried about State of World. Otherwise well.
/L. Hayes

5/17/52

APPENDIX 18

CLINICAL RECORD	NARRATIVE SUMMARY	
DATE OF ADMISSION May 13, 1952	DATE OF DISCHARGE MAY 19, 1952	NUMBER OF DAYS HOSPITALIZED 6

DIAGNOSIS: 000-x42 Schizoid personality

HISTORY: This 19 year old white male Coast Guardsman was admitted to this hospital May 13, 1952, stating that he was nervous, irritable and unable to get along with the other men in the Coast Guard. He apparently came from a broken home with an unstable home life, having lived with relatives and friends and attended various schools away from his parents who were separated. Before enlisting in the Coast Guard he was unable to pay close attention to his school work during his senior year in high school and joined the Coast Guard to escape the draft thinking that the Coast Guard was a less military unit. He soon found out that his hopes were unfounded and the disciplinary life could not be tolerated. Past history and review of systems were essentially noncontributory.

PHYSICAL EXAMINATION: Physical examination revealed a thin, poorly nourished, poorly developed white male in no apparent distress or discomfort. Physical findings were essentially normal except for a marked decrease in the size of the right testicle.

LABORATORY DATA: Laboratory examination revealed the blood serology for syphilis, white blood count, hemoglobin, sedimentation rate and urinalysis to be normal.

HOSPITAL COURSE: He was seen by the Consultant in Neuropsychiatry who stated his opinion that this patient is an inadequate personality of a schizoid type who did not have adequate adaptability and capacity for serving satisfactorily in the Coast Guard. Separation under the provisions of Circular No. 51-52 was recommended. The patient was then discharged, not fit for duty, with the recommendation that he be separated from the Coast Guard under the conditions of Personnel Circular No. 51-51.

EJS:rym

(Use additional sheets of this form (Standard Form 502) if more space is required)

SIGNATURE OF PHYSICIAN	DATE	IDENTIFICATION NO.	ORGANIZATION
Edward J. Schorr /s/ EDWARD J. SCHORR, Surgeon	5-29-52	293 784	WG

PATIENT'S LAST NAME – FIRST NAME – MIDDLE NAME	REGISTER NO.	WARD NO.
REIDT, Delbert Havon	72-884	2W

U.S.P.H.S. Hospital, Seattle, Washington (NAME OF HOSPITAL OR OTHER MEDICAL FACILITY)	NARRATIVE SUMMARY Standard Form 502

APPENDIX 19

[Illegible] RECORD BRIEF		[Illegible] ADMISSIONS		
[Illegible]	[Illegible]	[Illegible]	[Illegible]	
Reidt, Delbert Havon	CG-10	2W	72-884	Seattle-05
[Illegible]	[Illegible]		[Illegible]	[Illegible]
Rt. 1. Spokane, Washington (Spokane Co.)	May-13-52 10:15 AM		X	
[Illegible]		[Illegible]	[Illegible]	[Illegible]
Jacob [Illegible] Reidt –VE-9072			Father	Single
5612 – 1st Ave. N.W. Seattle, Wn.				

[Illegible]	[Illegible]	[Illegible]	[Illegible]	[Illegible]	[Illegible]	[Illegible]	[Illegible]
Spokane, WA	Nov-23-32	19	Prot.	Wh.	Male		293 784

[Illegible]	[Illegible]	[Illegible]	
[Illegible]	CGC FALGOUT	CG CUTTER	
[Illegible]	[Illegible]	[Illegible]	
Rowe		[Illegible]	[Illegible] X
[Illegible]		PHONE NUMBER	RELATIONSHIP
Jacob Reidt – 5612 – 1st Ave. N.E. Seattle, Wn.		VK_9072	Father
[Illegible]	[Illegible]	[Illegible]	[Illegible]
Jacob Reidt	Jennie B. Sauscer	1 day	USA

[Illegible]	[Illegible]	[Illegible]	[Illegible]
Wash.			31.2(a)
[Illegible]	[Illegible]	[Illegible]	14. ADMITTED BY
B.P. Evaluation			Dr. E. Lash

DIAGNOSIS NO.	[Illegible]	[Illegible]
oo-x42 – Schizoid personality		N.T.

OPERATION	[Illegible]	DATE	[Illegible]	ANESTHETIC METHOD & AGENT	[Illegible]

[Illegible]

CHEST X-RAY, 70 MM.
Taken Dec., 1951
in Alameda

[Illegible]	[Illegible] OR OTHER ([ILLEGIBLE])	44. LENGTH OF HOSPITALIZATION	
Discharge X		ADMISSION DATE	5-13-52
Left [Illegible]		DISPOSITION DATE	5-19-52
		TOTAL DAYS	6

EXPECTED ULTIMATE FITNESS FOR DUTY	48. RECOMMENDED CONVALESCENCE (CIRCLE ONE)	
[Illegible] X	X [Illegible]	45. O P FOLLOW-UP (IF YES GIVE DATE)
	LIGHT DUTY ___ DAYS ☐ IMMEDIATELY FIT FOR FULL DUTY	☒ NO ☐ YES

[Illegible] IMMEDIATE CAUSE OF DEATH	[Illegible] DUE TO	51. AUTOPSY ☐ YES ☐ NO
[Illegible] STATE DATE AND ALLEGED CAUSE		
[Illegible]	54. CHIEF OF SERVICE	55. REVIEWED BY
/s/ [Illegible]	/s/ [Illegible]	AD.
NOTE: [Illegible]		[Illegible]

APPENDIX 20

NOG-2522

REIDT, Delbert H. (Name, surname first)	293-784 (Service number)	SA. (Rank or rating)	CGC FALGOUT, Tacoma, Washington (Unit)

*REGULAR
*SPECIAL TEMPORARY
*RESERVE
(Enlistment status)

FINAL MEDICAL CERTIFICATE

Place USPHS.H.Seattle, Washington, Date 29 May, 1952.

To: _____
(Coast Guard unit)

FILE
T. LeB

_____
(Address)

The above-named patient was discharged from {*inpatient/*~~outpatient~~} treatment as shown below:

DIAGNOSIS (By nomenclature name and number)	DIAGNOSIS NUMBER	PERIOD OF TREATMENT FOR EACH CONDITION	
		FROM	TO
Schizoid personality.	000-x42	5-13-52.	5-19-52.

He {*~~is~~/*is not} fit for duty. REMARKS (Recommendations as to sick leave, further treatment, etc.:

BMS. written on 16 May, 1952 recommending that person be separated from Coast Guard in accordance with Coast Guard P.C. 51-51.

CONDUCT REPORT:

Did the patient cooperate in his treatment? {*Yes./*~~No.~~} Absent without permission? {*~~Yes.~~/*No.} Guilty of insubordination? {*~~Yes.~~/*No.

/s/ Edward J. Schnorr
E.J. SCHNORR, Surgeon, USPHS
U.S. Public Health Services

NOTICE OF MEDICAL TRANSFER

_____ (Patient's name, service number, rank or rating, and unit), who has been under {*inpatient/*outpatient treatment at _____ {*office/*hospital} at _____ for _____ (Diagnosis) since _____, 19 , has been transferred this date _____, 19 , to the U.S. Marine Hospital at _____ for further treatment.

_____

_____ *U.S. Public Health Service.*

*Strike out words not applicable.

APPENDIX 21

F-4

Form NCG-2525D

MEDICAL HISTORY

Page ___

Surname REIDT Service No. 293-784

Christian Name-S Delbert H.

STATE NAME OF PLACE	DATE EACH NEW ENTRY
USCG TRA STA INF. ALAMEDA, CALIF.	
Examined on 12/17/51 (date) and found Physically Qualified for retention in the service. /s/ [Illegible] SURGEON USPHS	

APPENDIX 22

EXHIBIT 8

(*Check one*) ☐ BEDSIDE, WHEEL CHAIR, OR STRETCHER ☐ BED PATIENT ☐ AMBULATORY	PATIENT'S LAST NAME – FIRST NAME – MIDDLE NAME REIDT, Delbert Haven	REGISTER NO.	WARD NO. Adm.
	REQUESTED BY Paul Isgreen, M.D.	DATE OF REQUEST 10-29-52	

EXAMINATION REQUESTED	AGE	SEX	IDENTIFICATION NO.
Skull Series	20	M	16 431 872

PERTINENT CLINICAL HISTORY, OPERATIONS, PHYSICAL FINDINGS, AND PROVISIONAL DIAGNOSIS

Old Head Trauma Headaches [Illegible]

RADIOGRAPHIC REPORT FILM NO. 3208 DATE OF REPORT 10-29-52

SKULL: There is no radiographic evidence of cranial or intracranial disease. No definite evidence of old trauma is visualized. In the lateral view there is some faintly outlined calcification apparently in the paritoneal gland, but it is not well enough visualized in the other planes for observation for deviation; in the lateral view there is no deviation.

IMPRESSION: No significant abnormality.

R. D. GENGELBACH, M.D. /S/ RDG

SIGNATURE: (SPECIFY LOCATION OF LABORATORY IF NOT PART OF REQUESTING FACILITY)

VAH, SPOKANE, WN. VAH, Spokane, WASH. (NAME OF HOSPITAL OR OTHER MEDICAL FACILITY) GPG 16-50906-S 5-10-5	Standard Form 519A (Rev. Feb. 1951) Promulgated by Bureau of the Budget Circular A–32 RADIOGRAPHIC REPORTS

APPENDIX 23

PSYCHIATRY

ARTHUR B. HARDY, M.D.
1010 DOYLE STREET
MENLO PARK, CALIFORNIA 94025

TELEPHONE 327-1312

January 12, 1953

Department of Transportation
Office of the General Counsel
Board for Correction of Military Records (C-60)
400 Seventh Street S.W.
Washington, DC 20590

Attention: Nancy Battaglia Re: Delbert Reidt
Docket No. 29-83(R)

Dear Ms. Battaglia:

All I can tell you is that at this time Mr. Reidt is totally disabled by the disabling effects of agoraphobia.

I did not know Mr. Reidt at the time when he was in the service. I do not know whether he was incapacitated at that time or not. I do know that there are very few people and medical officers in the Veterans Administration that understand agoraphobia, and to my knowledge there has not yet been treatment for agoraphobia available to veterans or others with agoraphobia through the VA.

Your Psychoneurotic Disorders Rating Scale does not conform with the American Psychiatric Association's DSM III, and since agoraphobia is more recently recognized than your rating scale revision date, the closest thing in your rating scale would be 9403: Phobic (neurosis), 9404:

Obsessive compulsive (neurosis), 9405: Depressive (neurosis), all of which are part and parcel of the same problem.

Sincerely,

/s/ A.B. Hardy
Arthur B. Hardy, M.D.

ABH:nf

Dept. of Transportation
Board for Correction
of Military Records
For the Coast Guard
Received: Jan. 8, 1983
Docket No.:

APPENDIX 24

ARTHUR B. HARDY, M.D.
1010 DOYLE STREET
MENLO PARK, CALIFORNIA 94023

TELEPHONE: 327-1312

RE: C16 431 872

March 6, 1983

Delbert Reidt
260 Tradewinds Ct. #4
San Jose, CA 95123

Dear Delbert,

I have no way of knowing whether your disability was in existence when you were in the service or if it was precipitated by the service or aggrevated as a pre-existing condition. All I can say is that if Doctor Lash indicated a phobic diagnosis while in the service then I would suspect that you had phobias in the service and that could easily be the follower or more phobic problems later and I would think that might be enough to establish that you had phobias during the service to give you service collected disability.

If you want to use this letter to you in addition to anything else that I have written and if it is some value to you it is o.k. with me.

Sincerely,

/s/ A. B. Hardy
Arthur B. Hardy, M.D.

ABH:bv

APPENDIX 25

Nut Case

FILE WITHOUT ACTION

NAME Reidt

SSN/SN 293784

8-4-95 CASE WORKED

DATE _____

_____ NO ADDRESS

_____ OTHER _____

_____

SIGNED Cassel

DATE 11-29-95

APPENDIX 26

PUBLIC LAWS – CH. 681 – OCT. 12, 1949, 63 STAT. 816

TITLE IV – PROVISIONS RELATING TO RETIREMENT, RETIREMENT PAY, SEPARATION, AND SEVERANCE PAY FOR PHYSICAL DISABILITY

ESTABLISHMENT OF A TEMPORARY DISABILITY RETIRED LIST

SEC. 401. (a) Any member of the uniformed services found to be unfit to perform the duties of his office, rank, grade, or rating by reason of physical disability and who otherwise qualifies as hereinafter provided may be retired or separated subject to the provisions of this title.

(b) The Secretary concerned shall establish for his uniformed service a temporary disability retired list, upon which shall be placed the names of all members of his service entitled to such placement pursuant to the provisions of this title. Such list shall be published annually in the official register or other official publication of the service concerned.

TEMPORARY DISABILITY RETIREMENT, PHYSICAL DISABILITY RETIREMENT, AND DISABILITY RETIREMENT PAY

SEC. 402. (a) Upon a determination by the Secretary concerned (1) that a member of a Regular component of the uniformed services entitled to receive basic pay, or a member of a Reserve component of the uniformed services entitled to receive basic pay who has been called or ordered to extended active duty for a period in excess of thirty days, is unfit to perform the duties of his office; rank, grade, or rating, by reason of physical disability incurred while entitled to receive basic pay; (2) that such disability is not due to the intentional misconduct or

willful neglect of such member and that such disability was not incurred during a period of unauthorized absence of such member; (3) that such disability is 30 per centum or more in accordance with the standard schedule of rating disabilities in current use by the Veterans' Administration; (4) that such disability was the proximate result of the performance of active duty; and (5) that accepted medical principles indicate that such disability may be of a permanent nature, the name of such member shall be placed upon the temporary disability retired list of his service by the Secretary concerned and such member shall be entitled to receive disability retirement pay as prescribed in subsection (d) of this section: *Provided*, That if condition (5) above is met by a finding that such disability is of a permanent nature, such member may be retired by the Secretary concerned and, upon retirement, shall he entitled to receive disability retirement pay as prescribed in subsection (d) of this section: *Provided further*, That if condition (3) above is not met because the disability is determined to be less than 30 per centum, the member concerned shall not be eligible for any disability retirement provided in this section, but may be separated for physical disability from the service concerned and upon separation shall be entitled to receive disability severance pay as prescribed in section 403 of this title: *Provided further*, That any disability shown to have been incurred in line of duty during a period of active service in time of war or national emergency shall be considered to be the proximate result of the performance of active duty.

(b) Upon a determination by the Secretary concerned (1) that a member of a Regular component of the uniformed services entitled to receive basic pay, or a member of a Reserve component of the uniformed services entitled

to receive basic pay who has been called or ordered to extended active duty for a period in excess of thirty days, is unfit to perform the duties of his office, rank, grade, or rating, by reason of physical disability incurred while entitled to receive basic pay; (2) that such disability is not due to the intentional misconduct or willful neglect of such member and that such disability was not incurred during a period of unauthorized absence of such member; (3) that such disability is 30 per centum or more in accordance with the standard schedule of rating disabilities in current use by the Veterans' Administration; (4) that such member has completed at least eight years of active service as defined in section 412 of this title; and (5) that accepted medical principles indicate that such disability may be of a permanent nature, the name of such member shall be placed upon the temporary disability retired list of his service by the Secretary concerned and such members shall be entitled to receive disability retirement pay as prescribed in subsection (d) of this section: *Provided*, That if condition (5) above is met by a finding that such disability is of a permanent nature, such member may be retired by the Secretary concerned and, upon retirement, shall be entitled to receive disability retirement pay as prescribed in subsection (d) of this section: *Provided further*, That if condition (3) above is not met because the disability is determined to be less than 30 per centum, the member concerned shall not be eligible for any disability retirement provided in this section, but may be separated for physical disability from the service concerned and upon separation shall be entitled to receive disability severance pay as prescribed in section 403 of this title: *And provided further*, That regardless of the percentage of disability determined to have been incurred, if condition (4) above is not met because the member concerned has completed less

than eight years of active service as defined in section 412 of this title at the time he would otherwise have been retired pursuant to this subsection, the member concerned shall not be eligible for any disability retirement provided in this section, but may be separated for physical disability from the service concerned and upon separation shall be entitled to receive disability severance pay as prescribed in section 403 of this title.

(c) Upon a determination by the Secretary concerned (1) that a member of the uniformed services, other than those members covered in subsections (a) and (b) of this section, is unfit to perform the duties of his office, rank, grade, or rating by reason of physical disability resulting from an injury; (2) that such injury was not the result of the intentional misconduct or willful neglect of such member; (3) that such disability is 30 per centum or more in accordance with the standard schedule of rating disabilities in current use by the Veterans' Administration; (4) that such injury was the proximate result of the performance of active duty, full-time training duty, other full-time duty, or inactive duty training, as the case may be; and (5) that accepted medical principles indicate that such disability may be of a permanent nature, the name of such member shall be placed upon the temporary disability retired list of his service by the Secretary concerned and such member shall be entitled to receive disability retirement pay as prescribed in subsection (d) of this section: *Provided*, That if condition (5) above is met by a finding that such disability is of a permanent nature, such member may be retired by the Secretary concerned and, upon retirement, shall be entitled to receive disability retirement pay as prescribed in subsection (d) of this section: *Provided further*, That if condition (3) above is not met

because the disability is determined to be less than 30 per centum, the member concerned shall not be eligible for any disability retirement provided in this section, but may be separated for physical disability from the service concerned and upon separation shall be entitled to receive disability severance pay as prescribed in section 403 of this title.

(d) A member of the uniformed services whose name is placed upon the temporary disability retired list of his service pursuant to subsections (a), (b), or (c) of this section, for the period during which his name is carried on such temporary disability retired list, but in no event to exceed a period of five years, or a member of the uniformed services who is retired pursuant to the provisions of this title, shall be entitled to receive disability retirement pay computed, at his election, by multiplying an amount equal to the monthly basic pay of the rank, grade, or rating held by him at the time of the placement of his name on the temporary disability retired list or at the time of his retirement, whichever is earlier, by (1) a number equal to the number of years of active service to which such member is entitled under the provisions of section 412 of this title, multiplied by 2½ per centum, or (2) the percentage of his physical disability as of the time his name was placed on the temporary disability retired list or at the time of retirement, whichever is earlier: *Provided*, That for the purpose of the computation of (1) above, fractions of one-half year or more of active service shall be counted as a whole year: *Provided further*, That the disability retirement pay of any such member who shall have held a temporary rank, grade, or rating higher than the rank, grade, or rating held by him at the time of placement of his name upon the temporary disability retired list or at

the time of his retirement, whichever is earlier, and who shall have served satisfactorily in such higher rank, grade, or rating as determined by the Secretary concerned, shall be computed on the basis of the monthly basic pay of such higher rank, grade, or rating to which he would have been entitled had he been serving on active duty in such higher rank, grade, or rating at the time of placement of his name on the temporary disability retired list or at the time of retirement, whichever is earlier: *Provided further*, That in no case shall such disability retirement pay exceed 75 per centum of the basic pay upon which the computation is based: *Provided further*, That the disability retirement pay of any member whose name is carried on the temporary disability retired list shall, for so long as his name is carried on such list, be not less than 50 per centum of the basic pay upon which the computation is based: *Provided further*, That if the physical disability entitling such member to disability retirement pay is found to exist as a result of a physical examination given in connection with effecting a permanent promotion or a temporary promotion where eligibility for such temporary promotion was required to have been based upon cumulative years of service or years of service in rank, grade, or rating, the disability retirement pay of such member shall be based upon the basic pay of the rank, grade, or rating to which such member would have been promoted but for such disability, if such rank, grade, or rating is higher than any other rank, grade, or rating upon which such pay is herein authorized to be computed and which such member would have been entitled to receive if serving on active duty in such rank, grade, or rating: *And provided further*, That for any member who, for any reason, has been or hereafter may be retired or whose name is carried on a temporary disability retired list and who, while in such status, serves

on active duty, and while so serving, incurs a physical disability of 30 per centum or more in accordance with the standard schedule of rating disabilities in current use by the Veterans' Administration or incurs a physical disability in addition to or an aggravation of the physical disability for which he was retired or for which his name was placed on the temporary disability retired list, shall, if qualified therefor pursuant to this title, be entitled, on his return to a retired status or to the temporary disability retired list, to receive either (1) disability retirement pay as provided in this section, using as multipliers the highest percentages and basic pay which he attained while serving on such active duty, or (2) retirement pay or retired pay, as the case may be, as provided by any law in effect at the time of his retirement; and, in addition thereto, if such member is, during such period of active duty, promoted to a rank, grade, or rating higher than that rank, grade, or rating on which his retired pay, retirement pay, or disability retirement pay was based, and has served satisfactorily in such higher rank, grade, or rating as determined by the Secretary concerned, be entitled, on his return to a retired status or to the temporary disability retired list, to receive such retirement pay, disability retirement pay, or retired pay computed on the basis of the higher rank, grade, or rating and which such member would be entitled to receive if serving on active duty in such higher rank, grade, or rating.

(e) A member of the uniformed services whose name has been placed upon the temporary disability retired list of his service shall be given periodic physical examinations, not less frequent than every eighteen months to determine whether the disability for which such member was temporarily retired has changed. If as a result of any

such examinations, or upon the termination of a period of five years from the date of temporary disability retirement, it is determined (1) that the physical disability of such member is of permanent character and such disability is 30 per centum or more in accordance with the standard schedule of rating disabilities in current use by the Veterans' Administration, the name of such member shall be removed from the temporary disability retired list of his service and such member shall be permanently retired for physical disability and he shall be entitled to receive disability retirement pay as prescribed in subsection (d) of this section: *Provided*, That for the purpose of computing such pay the percentage of his physical disability shall be determined as of the time of his permanent retirement; (2) that the physical disability of such member is less than 30 per centum in accordance with the standard schedule of rating disabilities in current use by the Veterans' Administration, the name of such member shall be removed from the temporary disability retired list of the service concerned, and such member maybe separated from the service concerned for physical disability and upon separation shall be entitled to receive disability severance pay as prescribed in section 403 of this title: *Provided further*, That at the I end of a five-year period during which the name of a member is carried on a temporary disability retired list, the Secretary concerned shall make a final determination of such member's case and shall cause such member to be retired, separated, or treated as provided in section 405 of this title.

(f) Notwithstanding the foregoing provisions of this section, any member of the uniformed services who shall have completed at least twenty years of active service as defined in section 412 of this title, and who is otherwise

qualified to be retired for physical disability except that his disability is less than 30 per centum in accordance with the standard schedule of rating disabilities in current use by the Veterans' Administration, shall be retired and shall be entitled to receive disability retirement pay as prescribed in subsection (d) of this section: *Provided*, That the provisions of this section shall not be interpreted to limit the application of any provisions of law relating to voluntary or involuntary retirement.

(g) Notwithstanding the foregoing provisions of this section, any member of the Army of the United States, Navy, Air Force of the United States, Marine Corps, or the Coast Guard, and all Regular and Reserve components thereof, who shall have completed at least twenty years of satisfactory Federal service in the uniformed services as defined in sections 302 and 306 of the Act of July 29, 1948 (62 Stat. 1087, 1089; 10 U. S. C. 1036a, 1036e), and who is. otherwise qualified to be retired for physical disability except that his disability is less than 30 per centum in accordance with the standard schedule of rating disabilities in current use by the Veterans' Administration may elect, in lieu of being separated and receiving disability severance pay pursuant to title IV of this Act, to be transferred to the inactive status list of the uniformed service concerned pursuant to section 308 of the Act of June 29, 1948 (62 Stat. 1090; 10 U.S.C. 1036g), and be granted retired pay upon attaining the age of sixty years if eligible in all other respects to be granted retired pay as provided in title III of that Act.

(h) That part of the disability retirement pay computed on the basis of years of active service which is in excess of the disability retirement pay that a member would receive if such disability pay were computed on the basis of

percentage of disability shall not be deemed to be a pension, annuity, or similar allowance for personal injuries or sickness resulting from active service in the armed service in the armed forces of any country within the meaning of section 22(b)(5) of the Internal Revenue Code, as amended.

(i) All members of the reserve components heretofore or hereafter retired or granted retirement pay because of physical disability shall be entitled to the same pay, rights, benefits, and privileges provided by law or regulation for retired members of the regular services.

SEPARATION AND SEVERANCE
PAY FOR PHYSICAL DISABILITY

SEC. 403. A member of the uniformed services separated for physical disability pursuant to the provisions of section 402 of this title shall be entitled to receive disability severance pay computed as follows: An amount equal to two months' basic pay of the rank, grade, or rating held by such member at the time of the placement of his name on the temporary disability retired list or at the time of his separation, whichever is earlier, and which such member would be entitled to receive at the time of separation if serving on active duty in such rank, grade, or rating, multiplied by a number equal to the number of years of active service to which such member is entitled under the provisions of section 412 of this title but not to exceed a total of two years' basic pay: *Provided*, That for the purpose of this computation, fractions of one-half year or more of active service shall be counted as a whole year: *Provided further*, That the disability severance pay of any such member who shall have held a temporary rank, grade, or rating higher than the rank, grade, or rating held by him at the time of the placement of his name on

the temporary disability retired list or at the time of his separation, whichever is earlier, and who shall have served satisfactorily in such higher rank, grade, or rating as determined by the Secretary concerned, shall be computed on the basis of the monthly basic pay of such higher rank, grade, or rating to which he would have been entitled had he been serving on active duty in such higher rank, grade, or rating at the time of placement of his name on the temporary disability retired list or at the time of separation, whichever is earlier: *Provided further*, That if the physical disability entitling such member to disability severance pay is found to exist as a result of a physical examination given in connection with effecting a permanent promotion or a temporary promotion where eligibility for such temporary promotion was required to have been based upon cumulative years of service or years of service in rank, grade, or rating, the disability severance pay of such member shall be based upon the rank, grade, or rating to which such member would have been promoted but for such disability, if such rank, grade, or rating is higher than any other rank, grade, or rating upon which such severance pay is herein authorized to be computed and which such member would be entitled to receive at the time of placement of his name on the temporary disability retired list or at the time of separation, whichever is earlier, if serving on active duty in the higher grade: *And provided further*, That in the case of a former member of the uniformed services who has received disability severance pay as provided in this section, the amount of such disability severance pay shall be deducted from any compensation for himself or his dependents to which he or they becomes entitled thereafter under laws administered by the Veterans' Administration for the same disability, but no such deductions shall be made from any death

compensation to which his dependents may become entitled subsequent to his death.

PERIODIC PHYSICAL EXAMINATIONS

SEC. 404. (a) A member of the uniformed services whose name is hereafter placed upon the temporary disability retired list may be required to submit to periodic physical examinations during the period in which his name is carried on such list.

(b) A member of the uniformed services whose name is placed upon the temporary disability retired list and who is required to submit to a periodic physical examination shall, for travel performed, be entitled to receive the travel and transportation allowance authorized for the rank, grade, or rating in which retired for temporary duty travel performed while on active duty. Failure of any such member to report for any periodic physical examination after receipt of proper notification may be considered cause for terminating his disability retirement pay, except that such payments shall be reinstated at a later date if just cause existed for such failure to report, in which case payments may be retroactive for a period of not to exceed one year.

RECOVERY FROM PHYSICAL DISABILITY

SEC. 405. (a) If, as a result of a periodic physical examination, a member of a Regular component of the uniformed services whose name has been placed on the temporary disability retired list is found to be physically fit to perform the duties of his office, rank, grade, or rating, he shall, subject to his consent, if an officer, be called to active duty and, as soon thereafter as practicable,

be reappointed, subject to the provisions of section 407 of this title, to the active list of his Regular component, or, if an enlisted person, he reenlisted in his Regular component.

(b) if as a result of a periodic physical examination, a member of a Reserve component of the uniformed services whose name has been placed on the temporary disability retired list is found to be physically fit to perform the duties of his office, rank, grade, or rating, he shall, subject to his consent, be reappointed or reenlisted, as the case may be, in his Reserve component: *Provided*, That if the name of such member was placed on the temporary disability retired list for physical disability incurred while serving in the National Guard of the United States, or in the Air National Guard of the United States, he shall, subject to his consent, if not reappointed or reenlisted, as the case may be, in the component from which removed, be appointed, reappointed, enlisted, or reenlisted, as the case may be, in the Organized Reserve Corps or the Air Force Reserve.

(c) Any appointment, reappointment, enlistment, or reenlistment authorized pursuant to subsection (a) or subsection (b) of this section shall be in a rank, grade, or rating not lower than the rank, grade, or rating permanently held at the time of placement of the name of the member concerned upon the temporary disability retired list, and may be in the rank, grade, or rating immediately above the rank, grade, or rating permanently held at the time of placement of the name of the member concerned upon the temporary disability retired list. When seniority in rank, grade, or rating or years of service is an applicable factor in qualifying a member of the uniformed services for future promotion, such member who is being

reappointed or reenlisted pursuant to this section shall, for the purpose of placement on a lineal list, promotion list, or other similar list, be given such seniority in rank, grade, or rating or be credited with such years of service as may be authorized by the Secretary concerned. Action under this subsection shall be taken on a fair and equitable basis, and regard shall be given to the probable opportunities for advancement and promotion to which such member might reasonably have become entitled but for placement of his name upon the temporary disability retired list.

TERMINATION OF TEMPORARY DISABILITY RETIREMENT PAY

SEC. 406. (a) If, as a result of a periodic physical examination, a member of the uniformed services whose name appears on the temporary disability retired list is found to be physically fit to perform the duties of his office, rank, grade, or rating, he shall –

(1) if an officer of a Regular component, have his disability retirement pay terminated upon the date of his recall to active duty and his status on the temporary disability retired list terminated on the date of his reappointment to the active list;

(2) if an enlisted person of a Regular component have both his status on such temporary disability retired list and his disability retirement pay terminated on the date of his reenlistment in the Regular component from which placed on the temporary disability retired list; or

(3) if a member of a Reserve component, have such status and his disability retirement

pay terminated on the date of his reappointment or reenlistment in a Reserve component, as the case maybe.

(b) If any such member does not consent to any action taken pursuant to either subsection (a) or subsection (b) of section 405 of this title, his status on the temporary disability retired list and his disability retirement pay shall be terminated as soon thereafter as practicable.

REAPPOINTMENT TO THE ACTIVE LIST OF OFFICERS PLACED ON THE TEMPORARY DISABILITY RETIRED LIST

Sec. 407. (a) The president, by and with the advice and consent of the Senate, is hereby authorized, in his discretion, to reappoint to the active list of the appropriate Regular component of the uniformed services those commissioned officers of the Regular components of the uniformed services whose names have been placed on the temporary disability retired list and who are subsequently found to be physically fit to perform the duties of their office, rank, or grade on active duty. The President, or the Secretary concerned, as the case may be, is authorized to reappoint to the active list of the appropriate Regular component of the uniformed services those warrant officers of the Regular component of the uniformed services whose names have been placed on the temporary disability retired list and who are subsequently found to be physically fit to perform the duties of their office, rank, or grade.

(b) Irrespective of any vacancy in a grade, the authorized number of officers in such grade shall be temporarily increased, if necessary, to authorize appointments made pursuant to section 405 of this title.

PHYSICAL DISABILITY RESULTING FROM INTENTIONAL MISCONDUCT OR WILLFUL NEGLECT

SEC. 408. When a member of the uniformed services incurs a physical disability which is determined to render him unfit to perform the duties of his office, rank, grade, or rating and which is determined to have resulted from his intentional misconduct or willful neglect, or was incurred during a period of unauthorized absence, such member shall be separated from his service without entitlement to any of the benefits of this title.

RANK OR GRADE IN WHICH RETIRED

SEC. 409. A member of the uniformed services who is retired pursuant to this title shall be retired in the rank, grade, or rating upon which his disability retirement pay is based or in such higher rank, grade, or rating as may be authorized by law at time of retirement.

CESSATION OF BENEFITS UPON SEPARATION

SEC. 410. Any former member who has been separated for physical disability from any of the uniformed services and paid disability severance pay pursuant to this title shall not thereafter, unless such former member again becomes a member of the uniformed services, be entitled to receive from the service from which such former member was separated any payment for any monetary obligation provided under any provision of law administered by any uniformed service or for such uniformed service by any other uniformed service on account of or arising out of such former member's service on or prior to such separation: *Provided*, That such separation shall not operate to bar. the former member concerned from receiving

or the service concerned from paying any moneys due and payable on the date of separation, or any moneys that become due as a result of a valid claim proceed against the Government pursuant to any provisions of law.

MEMBERS OR FORMER MEMBERS HERETOFORE RETIRED FOR PHYSICAL DISABILITY

Sec. 411. Pursuant to such regulations as the President may prescribe, (1) any member or former member of the uniformed services heretofore retired by reason of physical disability and now receiving or entitled to receive retired or retirement pay; (2) any former member of the uniformed services heretofore granted or entitled to receive retirement pay for physical disability; (3) any member of the Army Nurse Corps or any person entitled to the rights, privileges, and benefits of members of the Army Nurse Corps, retired for disability under the Act of June 20, 1930 (46 Stat. 790), as amended; and (4) any member of the Navy Nurse Corps, or any person entitled to the rights, privileges, and benefits of members of the Navy Nurse Corps, retired for disability prior to December 23, 1942, under the Act of June 20, 1930 (46 Stat. 790), as amended, may elect within the five-year period following the effective date of this title, (A) to qualify for disability retirement pay under the provisions of this Act and, dependent on his qualification, shall be entitled to receive either the disability retirement pay or the disability severance pay prescribed in this title: *Provided*, That the determination of the percentage of disability as prescribed in sections 402(a)(3), 402(b)(3), or 402(c)(3), as applicable, shall be based upon the disability of such member, former member, or person, as of the time he was last retired or as of the time he was granted retirement pay, as the case

may be, and the percentage of such disability will be determined in accordance with the standard schedule of rating disabilities in current use by the Veterans' Administration; or (B) to receive retired pay or retirement pay computed by one of the two methods contained in section 511 of this Act: *Provided further*, That the retired or retirement pay of each person referred to in (3) and (4) above shall, unless a higher rank or grade is authorized by any provision of law, be based upon the commissioned officer rank or grade authorized for such persons by the Act of May 7, 1948 (Public Law 517, Eightieth Congress).

DEFINITION OF ACTIVE SERVICE

SEC. 412. For the purposes of this title, the term "active service" shall be interpreted to mean (1) for members of the Regular components of the uniformed services and for those members, former members, and persons referred to in section 411(1), (3), and (4), all service as a member of the uniformed services, or as a nurse, or as a contract nurse prior to February 2, 1901, or as a reserve nurse subsequent to February 2, 1901, or as a contract surgeon, or as a contract dental surgeon, or as an acting dental surgeon, or as a veterinarian in the Quartermaster Department, Cavalry, or Field Artillery, or as an Army field clerk or as a field clerk, Army Quartermaster Corps, while on the active list or on active duty or while participating in full-time training or other full-time duty provided for or authorized in the National Defense Act, as amended, the Naval Reserve Act of 1938, as amended, or in other provisions of law, including participation in exercises or performances of the duties provided for by sections 5, 81, 92, 94, 97, and 99 of the National Defense Act, as amended, or all service which such member, former

member, or person has or is deemed to have pursuant to law for the purpose of separation or mandatory elimination from the active list of his uniformed service; (2) for members of the reserve components of the uniformed services, other than commissioned officers of the Reserve Corps of the Public Health Service, and for former members referred to in section 411(2) that service which is equal to the number of years which would be used by such members or former members as a multiplier in the computation of their retired pay pursuant to section 303 of the Act of June 29, 1948 (ch. 708, 62 Stat. 1088); and (3) for commissioned officers of the Public Health Service, heretofore retired for physical disability or hereafter retired or separated for physical disability pursuant to this Act, in addition to the service creditable as active service under (1) above, their service, other than commissioned service, with the Public Health Service.

REGULATIONS

SEC. 413. The Secretary concerned shall prescribe regulations for the administration of this title within his department or agency including regulations which shall provide that no member of the uniformed services shall be separated or retired for physical disability without a full and fair hearing if such member shall demand it.

POWERS, DUTIES, AND FUNCTIONS

SEC. 414. (a) All duties, powers, and functions incident to the determination of fitness for active service, percentage of disability at the time of separation from active service, and suitability for reentry into active

service and entitlement to and payment of disability severance pay shall be vested in the Secretary concerned.

(b) All duties, powers, and functions incident to payments of disability retirement pay, hospitalization, and reexaminations shall be vested in the Secretary concerned or in the Administrator of Veterans' Affairs under regulations promulgated by the President.

SEC. 415. Any member who, on the effective date of this Act, is a hospital patient and who within six months of the effective date of this Act is retired as a result of a physical disability growing out of the injury or disease for which he was hospitalized as of the date of enactment of this Act, may elect to receive retirement benefits computed under the laws in effect on the date preceding the date of enactment of this Act.

APPENDIX 27

DEPARTMENT OF VETERANS AFFAIRS
Regional Office
Henry M. Jackson Federal Building
915 Second Avenue
Seattle WA 98174-1060

[SEAL]

April 06, 2007

DELBERT HAVEN REIDT
9420 49TH AVE W
APT #20K
MUKILTEO WA 98275

In reply, refer to:
346/RT mlw
File Number: 16 431 872
Delbert H. Reidt

IMPORTANT – reply needed

Mr. Reidt:

We have reviewed your reopened claim for service connected disability compensation. You clarified that you are not seeking nonservice connected disability pension benefits.

Your claim for service connection for agoraphobia has been denied on a number of occasions, and the Board of Veterans Appeals has upheld the decision to deny your claim. In your latest correspondence, you submitted another copy of a filing dated Dec. 14, 1989 with the United States District Court for the Northern District of California. Our legal staff has already reviewed this document as well as many others you sent us over the years.

If you intend to pursue a claim for service connected disability compensation, this letter will give you information about what we will do, how long the claims process will take, what you can do to help us, and when you will

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hear from us. See the enclosed attachment "How You Can Help and How VA Can Help You" for more information about your claim.

Put your VA file number on the first page of every document you send us.

As stated above service connection for agoraphobia has been denied. The appeal period for that decision has expired and the decision is now final. In order for us to reopen your claim, we need new and material evidence.

- To qualify as new, the evidence must be in existence and be submitted to VA for the first time. Although VA will make reasonable efforts to help you obtain currently existing evidence, we cannot provide a medical examination or obtain a medical opinion until your claim is successfully reopened.
- In order to be considered material, the additional existing evidence must pertain to the reason your claim was previously denied.

New and material evidence must raise a reasonable possibility of substantiating your claim. The evidence cannot simply be repetitive or cumulative of the evidence we had when we previously decided your claim.

APPENDIX 28

MAY 23, 2007

TO: DEPARTMENT OF VETERANS AFFAIRS –
REGIONAL OFFICE HENRY M. JACKSON
FEDERAL BUILDING
915 SECOND AVENUE
SEATTLE, WA. 98174 1060

FROM: DELBERT H. REIDT
9420 49th AVE. WEST APT. 20K
MUKILTEO, WA. 98275-3750

re; 346/RT mlw FILE NUMBER 16 431 872 DELBERT H. REIDT

Regional Office,

I am in possession of your April 6, 2007.

Gentlemen, the letter of April 6, 2007 is typically in error as agency fails to cite the real disabilities of claimant.

When first claim was filed I did claim agoraphobia, but, changed that claim in 1983 to claim service-connection for, as reported by Dr. Hardy: VASRD 9403 phobic neurosis, 9404 obsessive-compulsive neurosis, 9405 depressive neurosis. See: APPENDIX 24 and 25 to the petition for writ of certiorari served this agency.

Appendix 27 is Public Law CH 681 Oct. 12, 1949 81st Congress 63 Stat. 816-25 relating to disabilities. Sect. 403 deals with my rights to disability status and pay while section 404 is my right to periodic check-ups for the disease which neither this agency or the Coast Guard ever complied with section 404.

Moreover the VA Hospital at Spokane, WA. diagnosed me as having a severe anxiety neurosis in 1952 within 1 year of discharge which I never knew until 1983 when I was allowed to review my file. This agency negligently failed or refused to inform me of my anxiety neurosis from 1952. I suppose or allege that is the reason why my file is now locked.

Moreover, the Feres Doctrine mandates disability status and pay as a bar to a damage claim. Well, under Const.Art. III section 2 I have the right to trial of fact and equity. This agency negligently fails to take into account the Feres Doctrine, Feres v. United States, 340 U.S. 135, 136, 137, 138 (1950) to my equitable rights. Therefore, there is a Const. claim now made to the Supreme Court and I have demanded waiver of Feres immunity for this agency.

I DEMAND $30,000,000.00 as originally claimed for 55 years of pain and suffering, emotional stress and mental anguish, anxiety and panic attacks and post service loss of wages due to inability to engage in gainful, substantial employment opportunities.

That's all,

/s/ Delbert H. Reidt